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December 28, 2011

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

ENTERED
Office of Proceedings

DEC 28 2011

Part of
Public Record

Dear Ms. Brown:

This refers to STB Finance Docket No. 34896, PIC Railroad LLC--Lease and Operation Exemption--Union Pacific Railroad Company, and STB Finance Docket No. 34987, Iron Bull Railroad Company LLC--Operation Exemption--PIC Railroad LLC, and to the letter from PIC Railroad, Inc. d/b/a Comstock Mountain Lion Railroad, electronically filed December 16, 2011.

By its Decision in the subject proceedings, served September 14, 2006, the Board authorized the Iron Bull Railroad Company to be a rail carrier operating on a railroad line, known as the Comstock Subdivision, pursuant to an operating agreement with PIC Railroad LLC, which was authorized to lease the line from the Union Pacific Railroad Company. In footnote 1 on page 1 of its Decision, the Board said, "Although [PIC Railroad LLC] will enter into an agreement whereby [Iron Bull Railroad Company LLC] will operate the line, PIC Railroad Company LLC also seeks an exemption to operate to fulfill its common carrier obligation in the event [Iron Bull Railroad Company LLC] were to cease operations."

Iron Bull Railroad Company LLC, now known as Utah Southern Railroad Company, LLC¹, has not ceased its operations. To the contrary, it is ready, willing and able to continue to render service on the Comstock Subdivision. PIC Railroad, Inc., d/b/a Comstock Mountain Railroad, however, has barred it from rendering service on the line. Neither it nor its corporate parent, CML Metals Corporation, has received or even filed for the Board's authorization for the adverse discontinuance of service by the Utah Southern Railroad Company, LLC.

¹ See, Docket No. FD 35558, Utah Southern Railroad Company, LLC--Change in Operators Exemption--Iron Bull Railroad Company, LLC, served November 4, 2011.

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Indeed, Comstock Mountain Lion Railroad, Inc. went so far as to advise the Association of American Railroads that it would be the operating rail carrier on the Comstock Subdivision, resulting in the assignment of CMRR as the reporting mark and number 642 as the accounting number to it, effective December 13, 2011.

On behalf of Utah Southern Railroad Company, LLC, I respectfully submit that this flagrant violation of 49 U.S.C. §10903 and 49 C.F.R. §1152.1, et seq., should not be tolerated by the Board, and the letter from PIC Railroad, Inc. d/b/a Comstock Mountain Lion Railroad should be rejected by the Board, pursuant to 49 C.F.R. §1104.10(a). Moreover, the Board, under 49 U.S.C. §11703, should request the Attorney General to bring a court proceeding against PTC Railroad, Inc. d/b/a Comstock Mountain Lion Railroad to cease its statutory and regulatory violations.

I certify that I this day have served a copy of this letter upon counsel for PTC Railroad, Inc. d/b/a Comstock Mountain Lion Railroad by e-mailing a copy to its counsel, Bret F. Randall, Esq. at brandall@djplaw.com.

If you have any questions concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

cc: Bret F. Randall, Esq.
James Jensen, Esq.
Mr. Michael Root